

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

JOHNNY WAYNE ROGERS, JR.,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-21-774-J
)	
STEPHENS COUNTY, et al.,)	
)	
Defendants.)	

ORDER

Plaintiff, a state prisoner appearing pro se, filed a Complaint pursuant to 42 U.S.C. § 1983. [Doc. No. 1]. The matter was referred for initial proceedings to United States Magistrate Judge Shon T. Erwin consistent with 28 U.S.C. § 626(b)(1)(B), (C). Judge Erwin granted Plaintiff's motion for leave to proceed in forma pauperis and ordered Plaintiff to make an initial payment of \$9.33. [Doc. No. 5] Plaintiff's deadline for payment was August 30, 2021, and Plaintiff was cautioned that his failure to make the payment would result in Judge Erwin recommending the action be dismissed without prejudice. *Id.* Plaintiff sought and was granted an extension to October 15, 2021, [Doc. Nos. 8, 11] but to date has not made the initial payment. Accordingly, Judge Erwin issued a Report and Recommendation recommending dismissal without prejudice. [Doc. No. 14]. Plaintiff has not filed an objection¹ and has therefore waived any right to appellate review of the factual and legal issues in the Report and Recommendation. *See Casanova v. Ulibarri*, 595 F.3d 1120, 1123 (10th Cir. 2010).

¹ It appears Plaintiff never received the Report and Recommendation because he failed to provide an accurate address for the Court's records. [Doc. Nos. 12-13, 15-16]. However, Plaintiff bears the responsibility for updating his contact information, therefore his inability to receive filings does not alter the outcome in this case. *See Theede v. U.S. Dep't of Labor*, 172 F.3d 1262 (10th Cir. 1999).

Because Plaintiff failed to comply with the Court's orders, the Court ADOPTS the Report and Recommendation [Doc. No. 14] and DISMISSES Plaintiff's Complaint [Doc. No. 1] without prejudice.

IT IS SO ORDERED this 6th day of December, 2021.


BERNARD M. JONES
UNITED STATES DISTRICT JUDGE